

**RECEIVED  
CENTRAL FAX CENTER****FEB 28 2008**

PTO/SB/97 (09-04)

Approved for use through 07/31/2008. OMB 0651-0031

U. S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**FAX TRANSMISSION****DATE:** February 28, 2008**PTO IDENTIFIER:** Application Number 09/760,588-Conf. #4299  
Appeal Number 2007-3897**Inventor:** Melton B. Affrime et al.**MESSAGE TO:** US Patent and Trademark Office  
(1) USPTO Central Fax No. (Official Copy)  
(2) Board of Patent Appeals and Interferences Fax No. (Courtesy Copy)  
(3) Examiner Donna Jagoe (Courtesy Copy)**FAX NUMBER:** (1) (571) 273-8300 (2) (571) 273-0299 (3) (571) 273-0576**FROM:** COVINGTON & BURLING LLP

Natalie M. Derzko

**PHONE:** (202) 662-5301**Attorney Dkt. #:** 025444.1132-US01**PAGES (Including Cover Sheet):** 6**CONTENTS:** Communication (4 pages)  
Certificate of Transmission (1 page)

If your receipt of this transmission is in error, please notify this firm immediately by collect call to sender at (202) 662-5301 and send the original transmission to us by return mail at the address below.

This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or duplication of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited.

**COVINGTON & BURLING LLP**1201 Pennsylvania Avenue, N.W., Washington, DC 20004-2401  
Telephone: (202) 662-6000 Facsimile: (202) 662-6291

**RECEIVED  
CENTRAL FAX CENTER****FEB 28 2008**

PTO/SB/97 (09-04)

Approved for use through 07/31/2006. OMB 0851-0031

U. S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

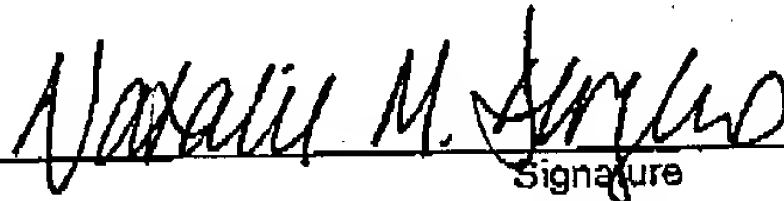
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Application No. (if known): 09/760,588  
Appeal No: 2007-3897

Attorney Docket No.: 025444.1132-US01

**Certificate of Transmission under 37 CFR 1.8**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office.

on February 28, 2008  
Date  
Signature

Natalie M. Derzko

Typed or printed name of person signing Certificate

48,102

Registration Number, if applicable

(202) 662-5301

Telephone Number

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

**Communication (4 pages)**

**RECEIVED  
CENTRAL FAX CENTER**

FEB 28 2008

Docket No.: 025444.1132-US01  
(PATENT)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Melton B. Affrime, *et al.*

Application No.: 09/760,588

Art Unit: 1614

Filed: January 16, 2001

Examiner: D. Jagoe

For: TREATING ALLERGIC AND  
INFLAMMATORY CONDITIONS

COMMUNICATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In accordance with Appellant's ongoing duty of disclosure pursuant to 37 C.F.R. § 1.56, we are providing this Communication to update information set forth in Section II -- "Related Appeals, Interferences, and Judicial Proceedings" of the Amended Appeal Brief, which was filed on November 3, 2006.

On September 29, 2006, Schering Corporation filed a complaint in the United States District Court for the District of New Jersey, alleging infringement of U.S. Patent No. 6,100,274, by the following defendants: Zydus Pharmaceuticals, USA, Inc.; Sandoz, Inc.; Mylan Pharmaceuticals, Inc.; Orgenus Pharma, Inc.; Orchid Chemicals and Pharmaceuticals, Ltd.; L. Perrigo Co.; Perrigo Co.; Glenmark Pharmaceuticals, Inc., USA; Glenmark Pharmaccuticals, Ltd.; GeoPharma, Inc.; Belcher Pharmaceuticals, Inc.; Lupin Pharmaceuticals, Inc.; Lupin, Ltd.; Ranbaxy, Inc.; Ranbaxy Laboratories, Ltd.; Dr.

DC: 2761822-1

Reddy's Laboratories, Inc.; Dr. Reddy's Laboratories, Ltd.; Caraco Pharmaceuticals Laboratories, Ltd.; Sun Pharmaceutical Industries, Ltd.; Watson Pharmaceuticals, Inc.; and Watson Laboratories, Inc. *Schering Corporation v. Zydus Pharmaceuticals, USA, Inc., et al.*, U.S.D.C. D.N.J., Case No. 3:06-cv-04715-MLC-TJB, filed September 29, 2006. In addition, Schering Corporation alleged infringement of U.S. Patent No. 6,979,463 by Dr. Reddy's Laboratories, Inc. and Dr. Reddy's Laboratories, Ltd. The District Court has signed Consent Judgments and Orders dismissing the Zydus and Ranbaxy defendants from the case.

On October 5, 2006, Schering Corporation filed a complaint in the United States District Court for the Middle District of Florida, Tampa Division, alleging infringement of U.S. Patent No. 6,100,274 by GeoPharma, Inc., and Belcher Pharmaceuticals, Inc. *Schering Corporation v. GeoPharma, Inc. and Belcher Pharmaceuticals, Inc.*, U.S.D.C. D.Fl., Case No. 8:06-cv-01843-SCB-EAJ, filed October 5, 2006.

On October 5, 2006, Schering Corporation filed a complaint in the United States District Court for the Eastern District of Michigan, alleging infringement of U.S. Patent No. 6,100,274 by Caraco Pharmaceutical Laboratories, Ltd., and Sun Pharmaceutical Industries, Ltd. *Schering Corporation v. Caraco Pharmaceutical Laboratories, Ltd., and Sun Pharmaceutical Industries, Ltd.* U.S.D.C. E.D.Michigan, Case No. 2:06-cv-14385, filed October 5, 2006.

On October 19, 2007, Schering Corporation filed an additional complaint in the United States District Court for the District of New Jersey, alleging infringement of U.S. Patent No. 6,100,274 by Dr. Reddy's Laboratories, Inc. and Dr. Reddy's Laboratories, Ltd. *Schering Corporation v. Dr. Reddy's Laboratories, Inc. and Dr. Reddy's*

*Laboratories, Inc.*, U.S.D.C. D.N.J., Case No. 3:07-cv-05038-MLC-TJB, filed October 19, 2007. On October 19, 2007, Schering Corporation also filed a complaint in the United States District Court for the District of New Jersey, alleging infringement of U.S. Patent Nos. 6,100,274 and 6,709,676 by Dr. Reddy's Laboratories, Inc. and Dr. Reddy's Laboratories, Ltd.. *Schering Corporation v. Dr. Reddy's Laboratories, Inc. and Dr. Reddy's Laboratories, Inc.*, U.S.D.C. D.N.J., Case No. 3:07-cv-05062-MLC-TJB, filed October 19, 2007.

On November 27, 2007, Schering Corporation filed a complaint in the United States District Court for the District of New Jersey, alleging infringement of U.S. Patent Nos. 6,100,274 and 6,709,676 by Anchen Pharmaceuticals, Inc. *Schering Corporation v. Anchen Pharmaceuticals, Inc.*, U.S.D.C. D.N.J., Case No. 3:07-cv-05649-MLC-TJB, filed November 27, 2007. On November 30, 2007, Schering Corporation filed a complaint in the United States District Court for the Central District of California, alleging infringement of U.S. Patent Nos. 6,100,274 and 6,709,676 by Anchen Pharmaceuticals, Inc. *Schering Corporation v. Anchen Pharmaceuticals, Inc.*, U.S.D.C. C.D.C.A., Case No. 2:07-cv-07840-DSF-JTL, filed November 30, 2007.

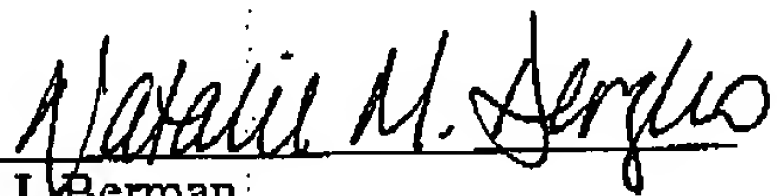
The present application does not claim priority to U.S. Patent Nos. 6,100,274, 6,979,463 or 6,709,676. However, U.S. Patent No. 6,100,274 provided the basis for the rejection in the Final Office Action that was appealed in this application.

Insofar as Applicants are aware, there are no other prior or pending appeals, interferences, or judicial proceedings that may be related to, will directly affect or will be directly affected by or have a bearing on the Board's decision in this appeal.

Dated: February 28, 2008

Respectfully submitted,

By

  
Paul J. Berman

Registration No.: 36,744

Natalie M. Derzko

Registration No.: 48,102

COVINGTON & BURLING LLP

1201 Pennsylvania Avenue, N.W.

Washington, DC 20004-2401

(202) 662-6000

Attorney for Applicants